

112 Rejections

Claims 1 and 4-16 are rejected under §112, second paragraph, as being indefinite. The indefinite term, "marked" has been deleted from these claims. Accordingly, the indefiniteness has been removed.

Claim 1 has also been rejected as being indefinite because of the use of the word "preferably." That term, too, has been removed.

Accordingly, the §112 rejections have been overcome.

Double Patenting Rejections

In paragraphs 4, 5, and 6 on pages 3-8 of Paper No. 7, four provisional obviousness type double patenting rejections are made against the instant application. The primary references in each rejection are co-pending application serial nos. 09/421,068; 09/791,447; 09/781,820; and 09/781,722. Each of these is co-owned by the applicant for the instant application. Each of these references discloses a polyester film containing a COC and a regrind. Application '068 does not disclose the use of a UV stabilizer or a flame retardant. Application '447 additionally discloses the use of a pigment and an optical brightener. Application '802 additionally discloses the use of a UV stabilizer. Application '722 additionally discloses the use of a flame retardant. The UK reference and Balog et al are cited for the proposition that UV stabilizers are known in polyester films.

Applicant will submit a terminal disclaimer in quick fashion once the provisional nature of the rejections is removed.

§103 Rejections

The first 103 rejection is set forth in paragraph 2 of page 8, Paper No. 7. In summary, Sasaki et al (disclosing a polyester film supplemented with a COC, but no regrind material) is modified first by Reidel et al, Minami et al, or Kajiura et al (each

disclosing numerous COCs that may be used in polyester), second by the UK reference and Balog et al (for the proposition that UV stabilizers in polyester films are known), and finally by Polymer Technology (for the proposition that regrind materials may be used in thermoplastic materials).

The second 103 rejection is set forth in paragraph 3 at page 11 of Paper No. 7. In sum, Japanese references '253, '319, '349, and '717 (cited for the proposition that polyester films contain COCs including COCs based upon a norbornene monomer, but no regrind material) are modified first by the UK reference and Balog et al (cited for the proposition that UV stabilizers are known in polyester films), and then by Polymer Technology (cited for the proposition that regrind materials may be used in thermoplastic materials).

Attached Claims 1 and 14-16 have been amended to more particularly point out and specifically claim the invention, as suggested by the Examiner at paragraph 4, page 14 of Paper No. 7. Specifically, the inventive polyester film contains of 8-10% by weight of a COC based upon a norbornene monomer and 10-70% by weight of the regrind material. The beneficial result arising from this combination is a polyester film that does not yellow. Yellowing ("colour change") is a known problem associated with the use of regrind material. This beneficial result may be more greatly appreciated by reference to the examples in the specification. There it is demonstrated how the instant invention does not yellow when compared to prior art materials.

Without acquiescing to any portion of the rejections not specifically rebutted herein, Applicant wishes to focus on the combination of the primary references (Sasaki et al and the Japanese references) in combination with Polymer Technology. By that combination, the Examiner asserts that it would have been obvious for the man of ordinary skill to add regrind material to the polyester film and obtain the instant invention. Applicant respectfully disagrees.

First, it is noted that none of the references (including Polymer Technology) mentions anything about the possibility of adding a regrind material to a polyester film. Nor would such a suggestion be likely. The skilled man would not make that suggestion because of the problems associated with the use of regrind material. That is readily apparent from Polymer Technology. In other words, Polymer Technology is a better reference against the use of regrind, than it is for the use of regrind.

While Polymer Technology does broadly state that it is known to use regrind in thermoplastic materials (under the head 'reclaimed thermal plastic materials'); it does not state that regrind is used in any and all applications. It states that "great care" should be taken, so to avoid "colour change." Moreover (under the head 'reclamation-plastic material'), it raises concerns about using regrinds in plastics for food and technical applications. Further, it suggests (under the paragraph beginning 'Problems') that regrinds are only used in certain low-grade end products. Accordingly, while regrinds may be used in some applications, they are not used in synthetic paper applications, such as that disclosed in the instant application. Furthermore, the non-use in synthetic paper follows from the primary references the foregoing 103 rejections. Specifically note the Japanese references, there is no mention of the regrind. Accordingly, where is the teaching that a white, biaxially oriented polyester film can be made with a regrind material? The answer is nowhere, but in the instant specification. There are no teachings in the references cited above about the use of regrind material in a white, biaxially oriented polyester film. Polymer Technology does not specifically teach the use of regrind material in food or technical applications, or in synthetic paper. Moreover, there is no instruction in any of these references as to the amounts of the various components or the identity of the various components that are necessary to obtain a non-yellowing polyester film containing a regrind material.

Therefore, the §103 rejections set forth above fail.

Accordingly, Applicant respectfully requests an early Notice of Allowance in the instant application.

Respectfully submitted,

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Klaus Schweitzer
See attached Limited Recognition
Under 37 CFR§10.9(b)

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